

**Response/Arguments**

**A. Claims In The Case**

Claims 1 – 19 are rejected. Claims 1, 6, 10 and 19 have been amended. The amendment to claim 6 was made to correct a typographical error. Claims 1 – 19 are pending in the case.

**B. The Claims Are Not Anticipated Pursuant to 35 USC § 102**

The Examiner rejected claims 1 – 19 pursuant to 35 UCS §102(b), as being anticipated by U.S. Patent No. 5,599,280 granted to Wolden (hereinafter referred to as Wolden).

Applicant has amended claims 1, 10 and 19. Amended claim 1 recites a combination of features which include “A computer mouse or trackball comprising: a heating element configured to generate heat, wherein the input device is configured to transfer heat from the heating element to the hand or wrist of a user of the input device during use”. Amended claim recites a combination of features which include “A computer mouse or trackball comprising: a vibrating element configured to generate vibrations, wherein the input device is configured to transfer vibrations from the vibrating element to the hand or wrist of a user of the input device during use.” Amended claim 19 recites a combination of features which include “A computer mouse or trackball comprising: a heating element configured to generate heat, wherein the input device is configured to transfer heat from the heating element to the hand or wrist of a user of the input device during use; anda vibrating element configured to generate vibrations, wherein the input device is configured to transfer vibrations from the vibrating element to the hand or wrist of a user of the input device during use. The amendments made to claims 1, 10 and 19 are supported by at least Page 2, lines 15 – 24 of the Specification.

The Examiner asserts that Column 2, lines 15 – 19, Column 2, lines 40 – 44, Column 2,

lines 56 – 64 and Figures 1 – 6 of Wolden's specification anticipate Applicant's claims.

Applicant respectfully disagrees with these rejections.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Wolden appears to be directed the use of internal heating elements and vibrating devices within the bodies of computer keyboards to alleviate problems associated with repetitive stress injury to the wrist or a computer keyboard user. Wolden's specification recites:

A user may place his wrist on the upper surface of the device while performing some task, such as typing on a computer keyboard, or while resting. An electrical cord 21 provides electrical power to operate internal heating elements and vibrating devices 15. (Column 2, lines 15 – 19).

FIG. 4 shows a control unit 20 and electrical cord 21 of the invention. Control unit 20 comprises switches for controlling the electrical power to the heating elements and vibrating devices. (Column 2, lines 40 – 44).

FIG. 6 depicts one mode of operation of therapeutic wrist device 13 with keyboard 19 and support 24. In this mode, support 24 raises the side of keyboard 19 that is closest to the user and keyboard 19 slopes downward away from the user. In normal operation, the user would place his wrists on wrist device 13 and his fingers would strike keys on keyboard 19. It had been determined that this configuration reduces stress and increases the comfort of the user. (Column 2, lines 56 – 64).

Applicant submits that the amended claims do not appear to be taught or suggested by the cited art. Applicant further submits that the claims are patentable over the cited art pursuant to 35 U.S.C. §102. The Examiner is respectfully requested to remove all outstanding novelty rejections.

C. **The Claims Are Not Obvious Over Wolden in view of Tu Pursuant To 35 U.S.C. § 103(a)**

Claims 2 and 4 – 5 were rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over Wolden in view of U.S. Patent number 6,206,842 granted to Tu et al. (hereinafter referred to as Tu et al.).

The Examiner asserts “Wolden disclose in Fig. 4 a computer input device... user place his wrist on the surface, such as typing on a computer keyboard, it will provide a heating element, see column 2, lines 15 – 19. However, Wolden does not disclose a temperature sensor coupled to a heating element. Tu et al. disclose a medical device having an additional vibrational massage therapy for the tissues comprising a temperature sensor to measure the rises or drops point of the temperature to activate the ultrasonic energy supply (column 5, lines 15 – 25).” The Examiner asserts that it would have been obvious “to implement the using of temperature sensor of medical device having vibrational massage therapy as taught by Tu et al. into the computer device having heating elements of Wolden because this would control a signal to cut off the ultrasonic energy supply or control a signal to activate the ultrasonic energy supply, and thereby generating thermal energy and microvibration in the tissue”. Applicant respectfully disagrees with these rejections.

In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner et al.*, 379 F.2d 1011, 154 U.S.P.Q. 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP § 2143.03.

For at least the same reasons described above, Applicant submits that Wolden fails to teach the combination of features of Applicant’s amended claim 1, or any claims depending

thereon. Applicant therefore asserts that the combination of cited references fails to render the claims obvious and unpatentable.

Moreover, the references cited against claims 2 and 4 – 5 appear to be drawn toward non-analogous art. The present invention is drawn to computer input peripheral devices configured to provide heat and/or vibrational energy to the hand and or wrist of a user. In contrast, Tu et al. appears to be drawn to a medical device for treating hemorrhoid or airway obstructions by reducing the mass of cellular tissues, and a means for generating vibration at the distal section of the tubular element to effect the ablation having an additional vibrational massage therapy for the tissues (Tu et al., Abstract).

In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992). MPEP 2141.01(a).

For at least these reasons, Applicant submits that claims 2 and 4 – 5 are patentable over the cited art. Applicant respectfully requests the withdrawal of the 35 USC §103(a) rejections against claims 2 and 4 – 5.

**D. The Claims Are Not Obvious Over Wolden in view of Moriyasu Pursuant To 35 U.S.C. § 103(a)**

Claims 11 and 13 - 14 were rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over Wolden in view of U.S. Patent number 5,857,986 granted to Moriyasu (hereinafter referred to as Moriyasu).

The Examiner states “Wolden does not disclose a vibration sensor coupled to the vibrating element. Moriyasu discloses in Fig. 1 an interactive vibrator system provide stimulus to a computer user with input device as a mouse (3) having vibration sensor (see vibrator system senses these signals and generates a driving signal for vibrating device (22, see Figure 1, column 3, lines 60 – 67)”. Applicant respectfully disagrees with these rejections.

Vibrating device 22 of Moriyasu’s invention is depicted as a footrest and appears to be housed separately from computer input device 3 (i.e. computer mouse). Moriyasu’s specification recites:

First, describing the vibrator portion of this embodiment, multiple independent vibrating devices are placed in the user's footrest 21 and chair 70. These may include, but are not limited to, left and right foot vibrating devices 22 and 23, left and right headrest vibrating devices 72 and 73 located in headrest 71, left and right backrest vibrating devices 76 and 75 located in backrest 74, and left and right seat vibrating devices 78 and 79 located in seat cushion 77. Note that the vibrating devices may be placed internal or external to the user's footrest and chair. (Specification, Column 5, lines 5 – 15).

Applicant respectfully submits that, for at least the reasons explained above, neither Wolden nor Moriyasu, taken alone or in combination, appear to teach or suggest the combination of features of claims 11 and 13 – 14. Applicant further asserts that claims 11 and 13 – 14 are patentable over the cited art. Applicant respectfully requests withdrawal of the 35 USC §103(a) rejection of claims 11 and 13 – 14.

**E. The Claims Are Not Obvious Over Wolden in view of Wright, Sr. Pursuant To 35 U.S.C. § 103(a)**

Claims 7 and 16 were rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over Wolden in view of U.S. Patent number 5,686,005 granted to Wright, Sr. (hereinafter referred to as Wright, Sr.).

The Examiner states that “Wolden does not disclose wherein the input device comprises an external control device to allow a user to alter the heating element or the vibrating element. Wright, Sr. discloses a conventional rheostat and/or thermostat controls (external control device, not shown) can be incorporated to the heat computer system.” Applicant respectfully disagrees with these rejections.

For at least the same reasons described above, Applicant submits that cited references fail to teach or suggest the combination of features of Applicant’s amended claims 1 and 10, or any claims depending thereon. Applicant further asserts that claims 7 and 16 are patentable over the cited art. Applicant respectfully requests withdrawal of the 35 USC §103(a) rejection of claims 7 and 16.

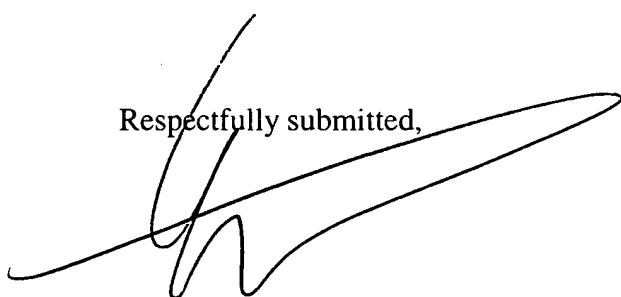
Inventor: Brett Muir  
Appl. Ser. No.: 09/874,426  
Att. Dckt. No.: 5181-76500

**Summary**

Based on the above, Applicant submits that all claims are now in condition for allowance.  
Favorable reconsideration is respectfully solicited.

Applicant believes no fee is required with this response. Should any fees be required or if any fees have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5181-76500/EBM

Respectfully submitted,



Eric B. Meyertons  
Reg. No. 34,876

Attorney for Applicant

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.  
P.O. BOX 398  
AUSTIN, TX 78767-0398  
(512) 853-8800 (voice)  
(512) 853-8801 (facsimile)

Date: 1-5-04